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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,942	01/25/2002	H. Brock Kolls	BK-020-05	5036
7590 Benjamin E Leace RatnerPrestia P O Box 980 Valley Forge, PA 19482-0980			EXAMINER MANCHO, RONNIE M	
			ART UNIT 3663	PAPER NUMBER
			MAIL DATE 11/02/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/056,942

Applicant(s)

KOLLS, H. BROCK

Examiner

Ronnie Mancho

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-15, 17 and 19-41 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 11-15, 17, 19-22, 30-34, 36 and 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-29, 35, 38-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 23-29, 35, 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon et al (6408232) in view of Jones et al (6430164).

5. Claims 23-29, 35, 38-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Cannon et al (6408232) in view of Jones et al (abstract; fig. 1&2; col. 4, lines 56-67; col. 5, lines 52, 53).

Regarding claim 23, Cannon et al (figs. 1-4; col. 2-9) disclose a method of vehicle servicing, said method of vehicle servicing comprising the steps of:

a) monitoring vehicle data (col. 4, lines 31-41) associated with the vehicle, said vehicle data being data communicated wirelessly between an in-vehicle device (44, figs. 1&2) located in said vehicle and a communication interface device (wireless transceiver 34; col. 3, lines 43-65; col. 6, lines 1+);

b) analyzing (wireless piconet network 14; col. 2, lines 51-64; col. 5, lines 30-49) said monitored vehicle data;

c) obtain diagnostic information related to a determining of vehicle service recommendations and vehicle replacement part recommendations (col. 6, lines 59-67; col. 7, lines 29-31, lines 53-58);

d) determining said vehicle service recommendations and vehicle replacement part recommendations according to the analyzed vehicle data and the diagnostic information (col. 6, lines 59-67; col. 7, lines 29-31, lines 53-58);

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e) displaying, within said vehicle (*col. 6, lines 32-45; col. 5, lines 58-67*), said determined vehicle service recommendations and vehicle replacement part recommendations to a user (*col. 6, lines 33-67; col. 7, lines 29-31, lines 53-58*);

f) selecting, by said user, from within said vehicle (*col. 6, lines 32-45; col. 5, lines 58-67*), one or more of said displayed at least one of vehicle service recommendations or vehicle replacement part recommendations (*col. 6, lines 33-67; col. 7, lines 29-31, lines 53-58*); and

receiving a selection from the user for the selected vehicle service recommendations and vehicle replacement part recommendations (*col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58*).

Cannon disclose selecting displayed vehicle service recommendations using cell phones, laptops, PDA, etc, but did not particularly disclose that the cell phones etc are used in a vehicle. Cell phones inherently are used in vehicles. The phones are not required to be connected physically or electrically to the vehicle for communication. However, Jones discloses a vehicle diagnostic device including a cell phone in a vehicle. Therefore, it would have been obvious to one of ordinary skill in the art of diagnostics to modify Cannon as taught by Jones for the purpose of communicating digital data from within a vehicle to and from a source external to the vehicle.

Regarding claim 24 Cannon et al / Jones et al disclose the method of vehicle servicing (*figs. 1-4; col. 2-9*) in accordance with claim 23 further comprising the steps of:

a) effectuating an e-commerce or an e-business transaction to place an order for said vehicle service recommendations or vehicle replacement part recommendations (*col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc*); and

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b) confirming said e-commerce, or said e-business order placement (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc).

Regarding claim 25 Cannon et al / Jones et al disclose the method of vehicle servicing in accordance with claim 24, wherein the step of confirming said e-commerce, or said e-business order placement further comprises the step of:

a) charging one or more fees for transacting said e-commerce, or said e-business transaction.

Regarding claim 26 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics to provide vehicle service recommendations or vehicle replacement part recommendations for a vehicle to a user for selection by the user, comprising the steps of:

a) receiving data for the vehicle at a communication interface device, said data being data communicated by an in-vehicle device located in the vehicle, or data communicated by a programmable storage device carried by a user (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

b) communicating said plurality of data from said communication interface device to a remote location by way of a global network(col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

c) analyzing said data at said remote location (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

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d) accessing one or more data processing resources to obtain diagnostic information related to determination of vehicle service recommendations and vehicle replacement part recommendations (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

e) determining said vehicle service recommendations or vehicle replacement part recommendations according to the analyzed data and the diagnostic information (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

f) selecting by said user, (*col. 6, lines 32-45; col. 5, lines 58-67*), at least one or more of the determined vehicle service recommendations or vehicle replacement part recommendations (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67); and

g) receiving from the user a selection of the determined vehicle service recommendations and vehicle replacement part recommendations from said vehicle through said communication interface device (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67).

Cannon disclose selecting displayed vehicle service recommendations using cell phones, laptops, PDA, etc, but did not particularly disclose that the cell phones etc are used in a vehicle. Cell phones inherently are used in vehicles. The phones are not required to be connected physically or electrically to the vehicle for communication. However, Jones discloses a vehicle diagnostic device including a cell phone in a vehicle. Therefore, it would have been obvious to one of ordinary skill in the art of diagnostics to modify Cannon as taught by Jones for the purpose of communicating digital data from within a vehicle to and from a source external to the vehicle.

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Regarding claim 26 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics in accordance with claim 26 further comprising the steps of:

a) effectuating an e-commerce or an e-business transaction by placing an order for the selection of said vehicle service recommendations or vehicle replacement part recommendations (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc); and

c) confirming said e-commerce, or said e-business order placement (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc).

Regarding claim 28 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics in accordance with claim 27, wherein the step of confirming said e-commerce or said e-business order further comprises the step of:

charging one or more fees for transacting said e-commerce, and/or said e-business transaction (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc).

Regarding claim 29 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics in accordance with claim 26 wherein, said programmable storage device is at least one of the following: a pocket PC, a personal data assistant, a wireless phone, a pager, an RED device, a smart card, a magnetic card, a key fob, a key chain, or a vehicle key (col. 6, lines 25-58; col. 8, lines 21-64).

Regarding claim 35 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of claim 23, wherein the step of monitoring vehicle data includes the step of:

monitoring vehicle data communicated wirelessly between the in-vehicle device and the communication interface (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67).



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Regarding claim 38 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of claim 23, further comprising the step of:

Confirming from within the vehicle, reception of the selection for the one or more selected vehicle service recommendations or vehicle replacement part recommendations at either the remote location or a further remote location external to the vehicle (figs 1&2; col. 6, lines 32-45; col. 5, lines 58-67).

Regarding claim 39 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of claim 23, further comprising the step of:

allocating parts used for the vehicle when the remote location or a further remote location receives the selection by the user of the one or more vehicle replacement part recommendations.

Regarding claim 40 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of claim 23, wherein the step of receiving the selection from the user includes receiving the selection externally to the vehicle from the user (figs 1&2; col. 6, lines 32-45; col. 5, lines 58-67).

Regarding claim 41 Cannon et al / Jones et al disclose a method (figs. 1-4; col. 2-9) of claim 23, wherein the step of selecting includes at least one of scheduling a service with a service provider (col. 8, lines 21-31) or ordering a vehicle part.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 23-29, 35, 38-41 have been considered but are moot in view of the new ground(s) of rejection.

*Communication*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho  
Examiner  
Art Unit 3663

10/19/2007

JACK KEITH  
SUPERVISORY PATENT EXAMINER